

## LABOUR DEPARTMENT

The 12th December, 1969

No. 8473-ASO(E)-Lab.69/27585.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947, the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the disputes between the workmen and the managements of M/s (1) Prem Textiles, Faridabad, (2) Calico Textiles, Faridabad, (3) New Era Textiles, Faridabad, (4) Punjab Weaving Mills, Faridabad, (5) Textile Agency (P) Ltd., Faridabad, (6) Rajyashree Textiles, Faridabad, (7) Om Parkash Bhartiya Powerloom Factory, Faridabad, (8) Hindustan Weaving Mills, Faridabad, (9) Krishna Powerloom Factory (P) Ltd., Faridabad, (10) Faridabad Weaving Factory (P) Ltd., Faridabad, (11) Prabhat Textiles, Faridabad, (12) New India Textiles, Faridabad, (13) Calcutta Cloth Mills, Faridabad, (14) National Cloth Manufacturers, Faridabad, (15) Purshotam Dass Mahansaria, Faridabad, (16) Faridabad Textiles, Faridabad, (17) East India Cotton Mfg. Co., Ltd., Faridabad, (18) Faridabad Powerloom Owners Association, Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 36 of 1969

between

The workmen and the management of (1) M/s Prem Textiles, Faridabad, (2) M/s Calico Textiles, Faridabad, (3) M/s New Era Textiles, Faridabad, (4) M/s Punjab Weaving Mills, Faridabad, (5) M/s Textile Agency (P) Ltd., Faridabad, (6) M/s Rajyashree Textiles, Faridabad, (7) M/s Om Parkash Bhartiya Powerloom Factory, Faridabad, (8) M/s Hindustan Weaving Mills, Faridabad, (9) M/s Krishna Powerloom Factory (P) Ltd., Faridabad, (10) M/s Faridabad Weaving Factory (P) Ltd., Faridabad, (11) M/s Prabhat Textiles, Faridabad, (12) M/s New India Textiles, Faridabad, (13) M/s Calcutta Cloth Mills, Faridabad, (14) M/s National Cloth Manufacturers, Faridabad, (15) M/s Purshotam Dass Mahansaria, Faridabad, (16) M/s Faridabad Textiles, Faridabad, (17) M/s East India Cotton Mfg. Co., Ltd., Faridabad and (18) M/s Faridabad Powerloom Owners Association, Faridabad.

Presents —

Shri Darshan Singh, for the workmen.  
Shri Jaswant Singh for the managements.

## AWARD

An industrial disputes with regard to certain matters arose between the workmen and the management of the following textile factories :—

- (1) M/s Prem Textiles, Faridabad.
- (2) M/s Calico Textiles, Faridabad.
- (3) M/s New Era Textiles, Faridabad.
- (4) M/s Punjab Weaving Mills, Faridabad.
- (5) M/s Textile Agency (P) Ltd., Faridabad.
- (6) M/s Rajyashree Textiles, Faridabad.
- (7) M/s Om Parkash Bhartiya Powerloom Factory, Faridabad.
- (8) M/s Hindustan Weaving Mills, Faridabad.
- (9) M/s Krishna Powerloom Factory (P) Ltd., Faridabad.
- (10) M/s Faridabad Weaving Factory (P) Ltd., Faridabad.
- (11) M/s Prabhat Textiles, Faridabad.
- (12) M/s New India Textiles, Faridabad.
- (13) M/s Calcutta Cloth Mills, Faridabad.
- (14) M/s National Cloth Manufacturers, Faridabad.
- (15) M/s Purshotam Dass Mahansaria, Faridabad.
- (16) M/s Faridabad Textiles, Faridabad.
- (17) East India Cotton Mfg. Co., Ltd., Faridabad.
- (18) M/s Faridabad Powerloom Owners Association, Faridabad.

The Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of Industrial Disputes Act referred the following disputes to this Tribunal for adjudication,—vide Gazette Notification No. 18513, dated 27th June, 1969 :—

- (1) Whether the piece rates of the workers should be revised ; if so, with what details ?
- (2) Whether the grades and scales of pay of time rated workers should be fixed ; if so, with what details ?

(3) Whether the rate of D.A. should be revised ; if so, from which date and with what details ?

(4) Whether any minimum fall back wage should be fixed ; if so, from which date and with what details ?

On receipt of the reference usual notices were issued to the parties. It is, however, not possible to adjudicate upon the disputes referred for adjudication because the parties have entered into an agreement under Section 10-A of the Industrial Disputes Act for settlement of the aforesaid disputes through the arbitration of Shri Munshi Ram, Deputy Commissioner, Gurgaon. A copy of the agreement has been filed and the statements of the parties have been recorded. Both the parties desire that the disputes be settled through by arbitrator named by them. The reference has accordingly become infructuous. I give my award accordingly. No order as to costs.

Dated the 21st October, 1969.

P. N. THUKRAL,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 3763, dated 24th October, 1969.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,  
PRESIDING OFFICER,  
Industrial Tribunal, Haryana,  
Faridabad.

The 16th December, 1969

No. 10054-A S. O (E)-Lab (9 30395).—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Rohtak General Transport Co. (P) Ltd, Rohtak.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

REFERENCE No. 52 OF 1968

BETWEEN

THE WORKMEN AND THE MANAGEMENT OF M/S ROHTAK GENERAL TRANSPORT  
CO. (P) LTD., ROHTAK.

Shri S. N. Vats for the workmen

Shri D. C. Chadha for the management

AWARD

An industrial dispute having arisen between the workmen and the management of M's Rohtak General Transport Company (P) Ltd., Rohtak, the same was referred for adjudication to this Tribunal, vide Gazette Notification No. DRK 89-C 68, dated 25th September, 1969. The two items of dispute which has been referred to this Tribunal are as under :—

1. Whether Shri Mala Ram should be transferred back as Conductor, if so, with what details?
2. Whether the present rates of night allowance should be increased? If so, with what details and from which date?

On receipt of the reference usual notices were ordered to be issued by my learned predecessor Shri K. L. Goshain in response to which a statement of claim was filed on behalf of the workmen and the management filed their written statement. My learned predecessor observed that the pleading of the parties gave rise only two issues which are precisely the same as the two items of dispute mentioned above.

mentioned in the order of reference and the parties were heretofore, directed to produce their evidence. Shri Mala Ram and Paras Ram appeared as a witness on behalf of the workmen and Shri Om Parkash Mehta, General Manager of the respondent company appeared as a witness on behalf of the management and closed his case the case was then adjourned for arguments. On the date fixed for arguments, Shri Mala Ram made a statement that he has been appointed as a driver and he does not press his claim for being appointed as a conductor.

As regard the second item of dispute the management in their written statement had pleaded that Shri Mala Ram had raised the demand for the increase of night allowance on his own initiative and the other workmen had not joined with him in raising this demand because they were well paid and were getting all the facilities and benefits due to them under the law. It was, therefore, considered necessary to frame an issue on the question as to whether the demand for the increase of night allowance was sponsored by a substantial number of workmen employed in the respondent concern and the following issue was, therefore, added:—

Whether the demand for the increase of night allowance has been raised by a substantial number of workmen or by the union of workmen?

The parties were given further opportunity to produce their evidence. The workmen produced Shri Paras Ram again and two more witnesses namely Sarvshri Neki Ram and Kishori Lal Conductors. The management produced Shri Sahib Dayal, Director of the respondent concern in rebuttal. Thereafter the representative of the workmen desired that an opportunity be given to him to file the price index. As prayed an opportunity was given to him and he filed a copy of the price index relating to Delhi. He also appeared as a witness in order to prove that the demand for the increase of night allowance was espoused by a substantial number of workmen before a formal demand notice was given to the management. The management produced Shri Om Parkash, Assistant Incharge in their concern in support of their cases. An application was given at this stage in which it was pointed out that due to certain unavoidable circumstances some friction had occurred between the share holders of the respondent company and with a view to improve the working of the business, the board of directors had resolved in its meeting held on 27th June, 1968 to form three administrative groups and this agreement became effective from 1st August, 1968. It was submitted that it was also decided that the three groups would take steps to constitute into a different companies with limited liability or firms as they made deem fit and that Shri Chadha who was appearing on behalf of the management was representing only the B Group. According to the Submissions of the management Groups A and C have not so far constituted themselves in to separate entity. Therefore, it was not considered necessary to issue any fresh notice to them because the notice of the reference had been given to the parent company known by the name of Rohtak General Transport Company (P) Limited Rohtak which still now is the only legal entity in the eye of law.

After the parties had closed their evidence, a date was given to them for arguments. On the date fixed Shri Chadha who was so far representing the respondent company made a statement that he represented B group only and so far as B group was concerned a compromise had also been effected with regard to the second item of reference. He stated that it was agreed that as a gesture of goodwill the management are prepared to increase night allowance of both the drivers and conductors at uniform rate of Rs. 2.60 paise each per night and Shri S. N. Vats accepted the proposed increase in the night allowance of the workmen.

Thus the position now is that item No. 1 must be answered in the negative in view of the statement of Shri Mala Ram that he did not desire to be transferred back as a conductor because he has been appointed as a driver. As regards the second item of reference it is proved by the evidence of Shri Vats that a substantial number of workmen in a meeting held on 3rd June, 1968 had supported the demand for increase in the night allowance. The additional issue framed on 7th January, 1969 that the demand for the increase of night allowance had been raised by a substantial number of workmen must, therefore, also be decided in favour of the workmen.

As regards the merits of the case I hold that the drivers and conductors employed by the B group of the respondent company are entitled to get the night allowance at the uniform rate of Rs. 2.50 paise each per night as per the statement of the parties. As regards the employees of group A and C I have carefully gone through the evidence produced by the parties. It is proved by the evidence of Shri Paras Ram driver which was recorded on 18th March, 1969 that they are being paid night allowance at the rate of Rs. 1.50 paise per night from the last 12—14 years. The correctness of this version has not been challenged by the management. The prices have substantially increased since then. It is but fair that the night allowance of the drivers and conductors employed in the A and C groups of the respondent concern should be increased as suggested by the representative of the B group. I give my award accordingly. No order as to costs.

P. N. THUKRAL

PRISING OFFICER,  
Industrial Tribunal, Haryana,  
Faridabad

Dated 17th November, 1969

Endorsement No. 3794 dated the 17th November, 1969

Forwarded (Four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL  
PRESIDING OFFICER,  
Industrial Tribunal, Haryana.

The 17th December, 1969

No. 10051- A.S.O.(E)-Lab-59 33539.—In pursuance of the provisions of section 17 to the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Bharat Carbon and Ribbon Manufacturing Co. Ltd., Faridabad :—

BEFORE SHRI P.N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Complaint No. 13-1 of 1969

Under section 33-A of the Industrial Disputes Act, 1947

Shri Ratan Lal, C/o Bhartiya Mazdoor Sangh, 2-D-50, Faridabad N.I.T., Faridabad

..Complainant.

versus

THE MANAGEMENT OF M/S BHARAT CARBON AND RIBBON MFG. CO. LTD., FARIDABAD

..Opposite Party.

Present.—

Shri Onkar Parshad for the complainant.  
Shri D.C. Bhardwaj for the respondent management.

#### AWARD

An industrial dispute between the workmen and the management of M/s Bharat Carbon and Ribbon Mfg. Co. Ltd., Faridabad with regard to the revision of grades and scales of pay of the workmen was referred to this Tribunal for adjudication,—*vide* Government Gazette Notification No. ID/FD 4-D', dated 19th March, 1969. During the pendency of this reference the management terminated the services of one of their workman Shri Ratan Lal without complying with the provisions of Section 33(2) (b) of the Industrial Disputes Act. Shri Ratan Lal has accordingly made the present complaint under Section 33-A of the Industrial Disputes Act and in substance he seeks reinstatement.

A preliminary objection has been raised on behalf of the management that the present complaint is not competent because there was no industrial dispute pending between the parties and the reference made to this Tribunal has been held to be bad in law on this account. The following preliminary issue was accordingly framed.

Whether the present application is not maintainable because the reference No. 13 of 1969 has been held to be bad in law and has since been decided ?

The simple argument of the learned representative of the workmen is that admittedly a reference with regard to the revision of grades and scales of pay of the workmen was pending in this Tribunal at the time the services of the complainant Shri Ratan Lal were terminated. It is urged that since the management did not comply with the provisions of section 33(2) (b) of the Industrial Disputes Act and therefore the present complaint is competent. It is submitted that the merits of the reference have not to be seen for the purpose of deciding the competency of the present complaint. In support of this submission reliance has been placed upon an authority of the Supreme Court reported in 1954-I-LLJ-Page 1. In this case the President and Secretary of the union instigated the workmen to go on strike during the pendency of an appeal pending before the appellate Tribunal. They were accordingly prosecuted under section 27 of the Industrial Disputes Act and in due course convicted. Their conviction was upheld by the High Court and the accused appealed to the Supreme Court. It was argued before the Supreme Court that the appeal pending before the appellate Tribunal was not valid and competent and therefore the conviction of the appellate was illegal. It was held by their Lordships of the Supreme Court that section 24 of the Industrial Disputes (Appellate Tribunal) Act on a plain and natural construction requires for its application no more than that an appeal should be pending and there is nothing in the language to justify the introduction of the qualification that the appeal should be valid or competent. It was held that it was for the appellate Court before whom the appeal is filed to determine whether the appeal pending before it is a valid or competent and this determination is possible only after the appeal is heard but there is nothing to prevent a party from filing an appeal which may ultimately be found to be in competent.

I have carefully considered the submissions of the learned representative of the workmen and have gone through the authority of the Supreme Court cited by him. The authority is clearly distinguishable. The submission of the learned representative is correct to this extent that the merits of the reference have not to be seen for the purpose of deciding whether the present complaint is competent but it is necessary to see that an industrial dispute should exist or should be apprehended with regard to which a reference has been made. It is well settled principle of law that no industrial dispute can be created by merely making a reference to an Industrial Tribunal. It has been held by this Tribunal that the reference which was made to this Tribunal was not valid because there was no industrial dispute between the parties as they were bound by a settlement in which the rate and scale of pay has been fixed and that settlement was binding on the parties and it has not been validly terminated as required by law. Since it has been held that there was no industrial dispute pending between the parties therefore the provisions of section 33 of the Industrial Disputes Act would not be applicable to the present case and the complaint is not competent. It is hereby dismissed on this preliminary ground. No order as to cost.

Dated 17th November, 1969.

P. N. THUKRAL,  
Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.

No. 3797, dated 17th November, 1969.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

Dated 17th November, 1969.

P.N. THUKRAL,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 10053-A.S.O.(E)-Lab-69/30591.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Prabha Calico Processor (P) Ltd., Gurgaon.

**BEFORESHRI P. N. THUKRAL PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD**

**Reference No. 9 of 1969**

*between*

**THE WORKMEN AND THE MANAGEMENT OF M/S PRABHA CALICO PROCESSOR (P) LTD., GURGAON.**

**Present.—**

Shri Shardha Nand, for the workmen.

Shri P. D. Sharma, for the management.

#### **AWARD**

An industrial dispute arose between the workmen and the management of M/s Prabha Calico Processor (P) Ltd., Gurgaon with regard to the payment of dearness allowance and the fixation of the grades and scales of pay. Accordingly the Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 referred the following items of disputes to this tribunal for adjudication,—vide Government Gazette Notification No. ID/GG/51-B-68/, dated 23rd January, 1969 :—

1. Whether the workmen are entitled to the grant of dearness allowance due to rise in the cost of living index? If so, with what details and from which date?
2. Whether the grades and scales of pay of the workers should be fixed? If so, with what detail and from which date?

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workmen and the management filed their written statement. A number of preliminary objections were taken on behalf of the management. It was pleaded that the Textile Mill,

Mazdoor Union, Gurgaon had no *locus standi* to raise the present dispute on behalf of the workmen and that no meeting of the workmen was held in which the present demands were approved. It was also pleaded that the dispute has not been raised by a substantial number of workmen and, therefore, this Court has no jurisdiction to adjudicate upon the dispute.

On merits it was pleaded that the respondent concern is a small unit employing about 28 workmen and it was established only in November, 1965 and that right from its inception it has suffered a loss to the tune of Rs. 1,32,806 up to 1967-68. It was pleaded that the respondent concern is still in its infancy period and it is, therefore, not possible to introduce the grades and scales at this stage. The pleadings of the parties gave rise to the following issues:—

1. Whether the Textile Mazdoor Union has no *locus standi* to raise the dispute?
2. Whether the present dispute has been raised by a substantial number of workmen?
3. Whether the respondent is still in its infancy period and has suffered a loss and for this reason it is not desirable to fix grades and scales?
4. If the above issues are found in favour of the workmen to what dearness allowance they are entitled?
5. Whether it is desirable that grades and scales be fixed in the respondent concern and what grades and scales should be fixed?

The parties were given an opportunity to produce their evidence. The representative of the workmen has stated that the management have terminated the services of all the workmen who were members of the Textile Mills Mazdoor Union which has sponsored their case and therefore it is not possible for him to produce any evidence. The result is that no evidence on behalf of the workmen have been produced at all. The management have produced a copy of the balance sheets in order to prove that the respondent concern is running at a loss. My findings on the issues framed are as under:—

*Issues No. 1 and 2.*—Since no evidence has been produced on behalf of the workmen, it cannot be said whether the present dispute has been raised by a substantial number of workmen and it is also not proved that the Textile Mills Mazdoor Union had a *locus standi* to raise the present dispute. I, therefore, find both these issues in favour of the management.

*Issue No. 3.*—It is proved from the 'copies' of the balance sheets that the management is not earning any profit. It is suffering losses. I, therefore, find this issue in favour of the management.

*Issue No. 4 and 5.*—No evidence has been led to prove what is the basic wages which is being paid to the workmen and to what dearness allowance, if any, they are entitled on account of the increase in the cost of living. As a matter of fact it appears that the Textile Mills Mazdoor Union has lost its representative character so far as the present workmen of the respondent is concerned and therefore none of the workmen have come forward in support of the demands which are the subject matter of the present reference. Since no evidence has been produced it cannot be held that the workmen are entitled to any dearness allowance and under the circumstances of the case it is not desirable to fix their grades and scales of pay in the present reference. I give my award accordingly. No order as to costs.

Dated 13th November, 1969

P. N. THUKRAL,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 3796, dated 17th November, 1969

Forwarded to the Secretary to Government, Haryana, Labour and Employment Departments Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.